

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MARY LEANDRA CLUCK,
Petitioner,
vs.
ELDON VAIL and MICHAEL
HUMPHREY,
Respondents.

NO. CV-09-5093-JPH

REVISED ORDER ADOPTING REPORT
AND RECOMMENDATION AND
DENYING MOTION FOR
APPOINTMENT OF COUNSEL AND
REQUEST FOR DISCOVERY

Due to clerical error, Ms. Cluck's timely submitted "Objections" (Ct. Rec. 26), received on December 10, 2009, were not properly docketed¹. The court has now

The court notes Ms. Cluck has been inundating the court with filings which are difficult to decipher. Ms. Cluck does not clearly and concisely identify her intent or requests. Petitioner has submitted copies of envelopes sent from this court, as well as copies of past Orders. Because Orders are already part of the court record it is unnecessary for Ms. Cluck to re-submit them. Furthermore, because the court already granted Petitioner leave to proceed *in forma pauperis*, there is no reason for her to submit additional applications.

Limited judicial resources are being expended to scan and docket submissions which have no apparent relevance to Ms. Cluck's habeas action. This has caused delays

ORDER-- 1

considered those objections, and for the reasons set forth by Magistrate Judge Hutton, **IT IS ORDERED** the Report and Recommendation filed November 25, 2009, recommending Ms. Cluck's *pro se* motion for appointment of counsel (Ct. Rec. 4) and her request for discovery (Ct. Rec. 5) be denied, is **ADOPTED in its entirety**. The Motion and Request (Ct. Recs. 4 and 5) are **DENIED**.

Petitioners argue the Magistrate Judge lacks authority to either grant *in forma pauperis* status or to instruct her to amend without merit. Petitioner's asserted entitlement to appointed counsel based on her deteriorating health issues under the Americans With Disabilities Act is also unavailing. To the extent Petitioner wishes to challenge the conditions of confinement she should do so in a separate complaint under 42 U.S.C. § 1983. A habeas action is not the appropriate forum in which to do so.

IT IS SO ORDERED. The District Court Executive is directed to enter this Order and forward a copy to Petitioner. Petitioner shall submit her amended habeas petition on or before January 25, 2010.

DATED this 21st day of December 2009.

s/Lonny R. Suko

LONNY R. SUKO
CHIEF UNITED STATES DISTRICT JUDGE

in properly docketing relevant documents such as her “objection” to the Report and Recommendation. Ms. Cluck should clearly label all documents she submits to the court and provide instructions regarding their purpose.

Again, if Ms. Cluck wishes to change any of the information in her Petition, she must file a First Amended Petition which functions as a complete substitute for, and not a mere supplement to, the present Petition. The court cannot grant Ms. Cluck's requests to "replace" pages of her petition. Ms. Cluck's submission of a single page of a petition does not comply with the directive of the court to submit a First Amended Petition.